

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6996

Investigation of Opticable, Inc. for renewal of)
its Certificate of Public Good for the Town of)
Readsboro, Vermont)

Order entered: 3/15/2005

RENEWED CERTIFICATE OF PUBLIC GOOD
ISSUED PURSUANT TO 30 V.S.A. § 506

IT IS HEREBY CERTIFIED that the Public Service Board ("Board") of the State of Vermont on this date finds and adjudges that the issuance of a Renewed Certificate of Public Good ("Certificate") to Opticable, Inc. ("Opticable" or the "Company") for a term of eleven years, to serve the Town of Readsboro, Vermont, will promote the general good of the State of Vermont, subject to the following conditions:

1. To the extent required by Vermont law or Board rule, tariffs of current rates, terms and conditions for provision of service and any change thereto shall at all times be filed with the Clerk of the Board and the Vermont Department of Public Service ("Department").
2. Opticable may not assess gross operating revenue tax as a line item on customer bills.
3. For the purpose of calculating the gross operating revenue tax under 30 V.S.A. § 22 and for calculating funding for public, educational, and governmental ("PEG") access administrative entities in the absence of an agreement between Opticable and the respective administrative entities, Opticable shall use the following definition of gross revenues: all cash, credit, property of any kind or nature, or other consideration received directly or indirectly by Opticable derived from the operation of its cable systems including, but not limited to, monthly fees charged to subscribers for basic service; monthly fees charged to subscribers for any optional service; pay television fees; pay-per-view fees, premium service fees, monthly fees charged to subscribers for any tier of service other than basic service; installation, disconnection and reconnection fees; leased channel fees; fees, payments or other consideration received from programmers; fees, payments or other consideration received from third parties for lease of space on either fiber or coaxial cable; converter rentals or sales; studio rental, production equipment and personnel fees; advertising revenues; and revenues from home shopping networks.

4. Opticable shall at all times provide a reasonable quality of service, having regard to Federal Communications Commission minimum service standards, available technology, subscriber interest, and costs.

5. Opticable shall at all times offer a reasonably broad range of programming, having regard to available technology, availability of such programming, the interests of subscribers, the revenues and potential revenues of the system, and costs.

6. The Board shall, to the extent permitted by law, retain jurisdiction to prescribe broad categories of programming.

7. Prices for services not subject to rate regulation by the Public Service Board shall at all times be reasonable, having regard to the costs of providing such service.

8. Except as may be modified by a change in law or implementation of Board rule, Opticable shall notify the Clerk of the Public Service Board and the Department forty-five (45) days prior to any:

- a. Change in rates, terms or conditions of service;
- b. Change in channels offered;
- c. Retiering of any channel; and
- d. Any lien, mortgage, pledge or other encumbrance on assets in the Vermont service territories owned by Opticable.

9. If Opticable begins doing business in the State of Vermont under any name other than the name in use on the date of the Order in this Docket, it shall file a notice of the new trade name with the Clerk of the Public Service Board and the Department fifteen days prior to so doing.¹

10. At the time of filing its Annual Report pursuant to 30 V.S.A. § 22, Opticable shall file with Department and the Board the following:

- a. A map sufficiently outlining the service territory and describing its existing plant and any extensions and replacements planned for commencement or completion within one calendar year from the close of the preceding calendar year or annual period;

1. For a corporate name change, *see* 11A V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.

- b. A listing of services, the rates charged for each service as of the date of the filing of the report, a statement of any changes in any such rates from the preceding calendar year or period, and a statement of the revenue derived from each service during such calendar year or annual period;
 - c. A balance sheet, an income statement, a statement of changes in financial condition, all as of the close of the preceding calendar year or annual period;
- 11. Opticable's deposit and disconnection policies shall at all times be consistent with Board Rules 3.200, 3.400, and 8.000, as they may be amended from time to time.
- 12. Opticable shall comply with all regulations of the Federal Communications Commission, including the regulations governing commercial leased access. Compliance with the commercial leased access rules requires Opticable to provide non-discriminatory access to its facilities to all video programmers qualified by the leased access regulations to such access.
- 13. This Certificate shall expire eleven years from the date of this Certificate.
- 14. This Certificate shall be subject to revocation upon good cause, including a substantial or continuous failure to abide by its material terms.
- 15. This Certificate may not be transferred without the consent of the Public Service Board.
- 16. Opticable shall promote and support the availability and use of local public, educational, and governmental content to the extent required by Board Rule 8.400, as may be amended from time to time.
- 17. Line extensions shall be built without customer contribution where:
 - a. There is an average density of twenty-five (25) equivalent year-round residential and business units passed per mile, starting at the nearest end of the existing trunk or distribution system; or
 - b. There is the equivalent of an average of twenty (20) verified year-round subscribers per mile along the proposed extension.
- 18. For the purposes of implementing Opticable's line extension policy, the Company shall count homes and businesses in the following manner:
 - a. Count all dwellings within 500 feet of the proposed extension (customers may be charged for the costs of providing a service connection that exceeds the cost of a standard 300-foot drop);
 - b. Count multiple unit business establishments such as hospitals, homes for the elderly, and nursing homes, as a subscriber per hospital room, bedroom or apartment; and

- c. In counting residential units and businesses for the purpose of implementing its line extension policy, do not count that part of the house drop (the facilities located between the dwelling and Opticable's distribution facilities generally located in the road right-of-way) constructed with coaxial cable as part of the line extension.

19. If as of the date of issuance of this Certificate, Opticable offers FM radio rebroadcast service, the Company will not eliminate the service without proper notice to consumers and prior to obtaining Board approval for a tariff revision to do so.

20. Opticable shall respond in writing within fourteen days to any information request from the Department or the Board concerning the status of line extension plans or construction progress. Opticable shall provide to the Board, the Department and affected municipalities complete descriptions of all rebuilds and upgrades sufficiently in advance of their construction so as to allow time for meaningful comments and possible integration of those comments into the construction projects.

21. Opticable shall adhere to the customer service standards contained in 47 C.F.R. § 76.309. The Company must monitor its customer service performance in relation to all FCC and Board customer service standards. Annually, the Company must submit these data to the Department and the Board.

22. Opticable shall create and retain for a three-year period a written record of each and all consumer complaints, whether verbal or written, and notations describing the manner in which such complaints were resolved.

23. Opticable must respond to written inquiries from the Department regarding consumer complaints within fourteen days commencing upon receipt by Opticable of the Department's written notification of a complaint. Written notification includes notification by electronic mail, facsimile, hand-delivery, or U.S. mail. In any case in which the Company is unable to respond fully, providing all information necessary to resolve the complaint, within fourteen days, it must provide notice to the Department before the elapse of the initial fourteen days that an extension of time is required. In no case may the total response time, including the initial fourteen days and any extension, exceed twenty-one days. Although the initial transmittal of the complaint must be

in writing, the Department and the Company are permitted to discuss the complaints in person or by telephone.

24. Opticable shall provide customers at the time of any service order with a clear and understandable description of the terms, conditions, rates and charges for all requested services and appropriate alternatives, which shall include the least cost alternatives to the requested service. The Company shall disclose, at a minimum, any non-recurring charges, such as for installation, the recurring charges for services, and any charges that apply to a change in service or periods in which such charges are waived.

25. Opticable shall provide upon customer request a written confirmation of all service orders, describing the requested service(s) and associated rates no later than the first billing cycle following the order. The notice shall also inform consumers of significant terms and conditions affecting the rates.

26. To the extent possible, Opticable shall notify all customers in advance of planned service outages. Such notices shall include the estimated time and duration of the outages.

27. Required annual notices. Opticable shall annually provide to each of its subscribers, and shall, on or before January 30 of each year, certify to the Board, that it has distributed the following notices during the previous calendar year:

- a. A notice that states that the Board and the Department desire to hear the views of subscribers regarding the quality of services provided by the Company and as to the reasonableness of the terms upon which such services are provided; and informs the subscribers how they may communicate their views to the Board, to the Department, and to the Company.
- b. The notices required by Public Service Board Rule 8.341 and 47 C.F.R. §6.1602(b)-(c).
- c. A notice of the complaint and appeal procedure for complaints against Opticable and the right of the customer to file a complaint with the Department of Public Service, Division of Consumer Affairs & Public Information, if the customer is dissatisfied with the resolution of a complaint filed directly with the Company. The form of this notice shall be approved by the Department prior to its distribution.

28. Opticable shall not use the term "Basic" in reference to any service tier other than the lowest level of cable service a subscriber can select.

Dated at Montpelier, Vermont, this 15th day of March, 2005.

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)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: March 15, 2005

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)